

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 22-20975-CIV-WILLIAMS

ANGELA NAILS,

Plaintiff,

v.

MAL ORTEGA,

Defendant.

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ORDER

THIS MATTER is before the Court on U.S. Magistrate Judge Chris M. McAiley's Report and Recommendation ("**the Report**") (DE 24) that the Court grant Defendant Mal Ortega's ("**Defendant**") Motion to Dismiss (DE 18) and dismiss the above-captioned case. On March 29, 2022, *pro se* Plaintiff Angela Nails ("**Plaintiff**") initiated this medical malpractice action against Defendant. (DE 1.) After the Court granted Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* and directed the U.S. Marshals Service to serve Defendant (DE 6), Defendant filed the instant Motion to Dismiss (DE 18) and Judge McAiley subsequently issued the Report. (DE 24.)

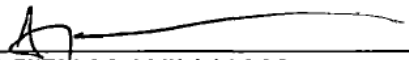
In the Report, Judge McAiley recommends that the Court dismiss this case on several grounds. First, the Report notes that Plaintiff has repeatedly refused to accept service of the Motion to Dismiss and Defendant's subsequent Motion to Stay Proceedings (DE 19), violating the Local Rules for the Southern District of Florida. (DE 24 at 1–4.) Second, the Report notes that in responding to the Motion to Dismiss, Plaintiff failed to "dispute any of the arguments that Defendant raises in its Motion [to Dismiss]." (*Id.* at 4.) Third, the Report agrees with the Motion to Dismiss that: (1) Plaintiff's Complaint constitutes a shotgun pleading in violation of the Federal Rules of Civil Procedure; (2) Plaintiff failed to provide Defendant with pre-suit notice of her medical malpractice suit, as Fla. Stat. § 766.106 requires; and (3) Plaintiff's Complaint "improperly seeks pre-judgment garnishment, liens[,] and unspecified equitable relief." (*Id.* at 4–5.) On August 9,

2022, Plaintiff filed her objections to the Report. (DE 25.) Upon review of the well-reasoned Report, Plaintiff's Objections, the record, and applicable case law, the Court agrees with Judge McAliley's recommendations.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The conclusions in the Report (DE 24) are **AFFIRMED AND ADOPTED**.
2. Defendant's Motion to Dismiss (DE 18) is **GRANTED**.
3. This case is **DISMISSED**.
4. All other pending motions are **DENIED AS MOOT**.
5. Any deadlines, hearings, and/or trial settings are **CANCELED**.
6. The Clerk of Court is directed to **CLOSE** the above-captioned case.

DONE AND ORDERED in Chambers in Miami, Florida on this 16th day of August, 2022.



KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

Copies furnished to:

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